

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CRYSTALLEX INTERNATIONAL
CORPORATION

Plaintiff,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

C.A. No. 1:17-mc-000151-LPS

TIDEWATER INVESTMENT SRL and
TIDEWATER CARIBE S.A.

Plaintiffs,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

C.A. No. 1:19-mc-00079-LPS

**PLAINTIFFS TIDEWATER INVESTMENT SRL AND TIDEWATER CARIBE S.A.'S
ATTACHED JUDGMENT STATEMENT**

Pursuant to the Court's August 8, 2023 Oral Order, D.I. 654, and the Special Master's letter dated August 7, 2023, D.I. 652, Plaintiffs and judgment creditors Tidewater Investment SRL and Tidewater Caribe S.A. (together, "Tidewater") submit this Attached Judgment Statement.

I. SHORT SUMMARY OF THE PARTIES' UNDERLYING DISPUTE

Plaintiff Tidewater Investment SRL is the corporate parent of Plaintiff Tidewater Caribe, S.A. In 2009, the Bolivarian Republic of Venezuela ("Venezuela") expropriated Tidewater's investments in a venture to provide maritime support services to that country's oil and gas industry.

On February 16, 2010, Tidewater commenced an arbitration proceeding against Venezuela under the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (“ICSID Convention”). On March 13, 2015, the ICSID Tribunal issued an award in favor of Tidewater and against Venezuela in the principal amount of \$46,400,000, plus interest from May 8, 2009 (date of expropriation) to the date Venezuela satisfies the Award at a rate of 4.5% per annum compounded quarterly, and \$2.5 million in partial reimbursement of Tidewater’s costs (the “Award”).

On July 9, 2015, Venezuela filed with the ICSID Secretary-General an application for partial annulment of the Award. On December 27, 2016, an *ad hoc* ICSID Annulment Committee issued a decision on Venezuela’s application for partial annulment. While the Committee annulled a portion of the Award, it left unaffected the remainder of the Award, including the adjudication of \$36,397,000 in compensation to Tidewater plus interest from May 8, 2009 (date of expropriation) to the date Venezuela satisfies the Award at a rate of 4.5% per annum compounded quarterly, and \$2,500,000 in partial reimbursement of Tidewater’s costs associated with the arbitration proceeding (the “Annulment Decision”). The Annulment Decision also granted Venezuela \$122,069 in partial reimbursement of its costs associated with the annulment proceeding.

II. DESCRIPTION OF TIDEWATER’S COLLECTION EFFORTS

On March 16, 2015, Tidewater petitioned the United States District Court for the Southern District of New York, to recognize the pecuniary obligations of the Award and to enter it as a judgment of that court. *Ex Parte* Petition to Recognize ICSID Arbitration Award, *In re Tidewater Investment SRL*, 1:15-cv-01960-ALC (S.D.N.Y. Mar. 16, 2015), D.I. 1. On March 18, 2015, the Court entered an *ex parte* judgment on behalf of Tidewater, *id.*, D.I. 6, but in accordance with

Mobil Cerro Negro, Ltd. v. Bolivarian Republic of Venezuela, 863 F.3d 96 (2d Cir. 2017), the court later dismissed the proceeding for lack of jurisdiction under the Foreign Sovereign Immunities Act at Venezuela's request. *In re Tidewater Investment SRL*, 1:15-cv-01960-ALC (S.D.N.Y. Jan. 22, 2018), D.I. 47.

On July 21, 2017, Tidewater commenced an action in the United States District Court for the District of Columbia seeking recognition and enforcement of the Final Award. *See Tidewater Investment SRL v. Bolivarian Republic of Venezuela*, 17-cv-1457-TJK (D.D.C. July 21, 2017), D.I. 1. On January 25, 2019, that court entered a final judgment against Venezuela ("Judgment"). *See id.*, D.I. 23. Exhibit A.

On April 3, 2019, Tidewater registered that final Judgment in this Court. On November 15, 2019, Tidewater moved this Court for an order authorizing the issuance of a writ of attachment *feri facias* pursuant to 28 U.S.C. § 1610(C). *Tidewater Investment SRL v. Bolivarian Republic of Venezuela*, 1:19-mc-00079-LPS (D. Del. Nov. 15, 2019), D.I. 5. Venezuela opposed that motion, *id.* D.I. 13, 53, which was stayed pending proceedings in other cases, *id.*, D.I. 18; PDVSA intervened and joined in Venezuela's opposition once the stay was lifted, *id.* D.I. 63; and Tidewater has replied to Venezuela's opposition, *id.* D.I. 56. Tidewater's motion is fully briefed and awaits adjudication by this Court. Indeed, this Court will hear oral argument on that motion on September 12, 2023, *id.* D.I. 66.

III. INITIAL AMOUNT OF THE APPLICABLE JUDGMENT

ICSID awarded Tidewater \$36,397,000 in compensation plus interest from May 8, 2009 (date of expropriation) to the date Venezuela satisfies the Award at a rate of 4.5% per annum compounded quarterly, and \$2,500,000 in partial reimbursement of Tidewater's costs associated with the ICSID arbitration proceeding minus \$122,069, which Tidewater owes Venezuela in

partial reimbursement of its costs associated with the annulment proceeding. As of January 25, 2019 (the date of the Judgment), the amount of compensation owed to Tidewater, including interest accrued up to that date, is \$56,238,263.49 (the “Compensation Amount”); and the amount of costs owed to Tidewater is \$2,377,931 (\$2,500,000 *minus* \$122,069) (the “Costs Amount”).

From the date of Judgment of January 25, 2019 onwards, (i) the Compensation Amount continues to accrue interest at a rate of 4.5% per annum compounded quarterly; and (ii) the Costs Amount accrues interest at a rate of 2.59%, as provided for in 28 U.S.C. § 1961(a), (b). In both cases, interest accrues until Venezuela satisfies the Judgment. Exhibit A. As of today, the Compensation Amount, including accrued interest is \$69,186,840.32, and the Costs Amount, including accrued interest is \$2,965,133.85.

IV. THE AMOUNT BY WHICH THE JUDGMENT HAS BEEN REDUCED AS RESULT OF COLLECTION EFFORTS BY THE JUDGMENT CREDITOR

The amount of the Judgment has not been reduced as a result of collection efforts. To date, Tidewater’s collection efforts have not led to any recovery, and Venezuela has not paid any money to satisfy the D.C. Judgment. Exhibit B.

V. THE PROPOSED RATE AT WHICH POST-JUDGMENT INTEREST IS ACCRUING

The Judgment orders that interest accrues at a rate of 4.5% per annum compounded quarterly from May 8, 2009, to the date of payment, as determined by the ICSID Secretariat. Exhibit B. Additionally, the interest on the Costs Amount accrues interest at a rate of 2.59%, as provided for in 28 U.S.C. § 1961(a), (b).

To calculate the compound interest on the Compensation Amount, this Court should use the following formula: $A = \$36,397,000 \times [1 + (.045/4)]^{4t}$, where t is the number of years that have elapsed between May 8, 2009, and the date of payment. To calculate the compound interest on the Costs Amount, this Court should use the following formula: $A = \$2,377,931 \times (1 + .0259)^t$, where t is the number of years that have elapsed between January 25, 2019 (date of judgment) and the date of payment.

Respectfully submitted,

Dated: August 14, 2023

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